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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,305	02/10/2004	Anne Verhaert	AVERP3435USA	1502

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EXAMINER
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NORDMEYER, PATRICIA L

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/775,305

Applicant(s)

VERHAERT, ANNE

Examiner

Patricia L. Nordmeyer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. In view of the Appeal Brief filed on July 31, 2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing at the end of the office action.

### ***Withdrawn Rejections***

2. The 35 U.S.C. 103(a) claims 1 – 5, 12 and 14 – 16 over Richter et al. in view of Kato in the office action dated November 3, 2005 is withdrawn due to Applicant's arguments in the response dated July 31, 2006.

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3. The 35 U.S.C. 103(a) claims 6, 7 and 9 – 11 over Richter et al. in view of Kato and Alberg et al. in the office action dated November 3, 2005 is withdrawn due to Applicant's arguments in the response dated July 31, 2006.

4. The 35 U.S.C. 103(a) claim 8 over Richter et al. in view of Kato and Pape et al. in the office action dated November 3, 2005 is withdrawn due to Applicant's arguments in the response dated July 31, 2006.

5. The 35 U.S.C. 103(a) claim 13 over Richter et al. in view of Kato and Borgers et al. in the office action dated November 3, 2005 is withdrawn due to Applicant's arguments in the response dated July 31, 2006.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1 – 5, 12 and 14 – 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Richter et al. (USPN 6,363,587).

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Richter et al. disclose a composite tape in a roll form (Figure 2) which a closure tab for disposable articles can be cut (Column 1, lines 4 – 6) comprising a fastening tape (Figure 3, #30) comprising a backing film having a fastening surface (Figure 3, #33 and 36), the backing film having a bonding extension section (Figure 3, #7) and an engaging extension section (Figure 3, #39), wherein the bonding extension section attaches the fastening tape to a disposable absorbent article (Column 4, lines 25 – 27) and mechanical fastening elements, hooks (Column 4, lines 46 – 51), projecting from the backing film at the engaging extension section (Figures 3 and 4, #31) and comprising a release tape comprising a backing layer (Figure 3, #47) and an adhesive layer (Figure 3, #44) wherein the backing layer of the release tape entirely covers the mechanical fastener of the fastening tape (Figure 2, wherein the mechanical fastener is cover by the backing layer of the next layer of tab tape in roll form) and wherein the fastening tape is releasably attached to the release tape (Column 5, lines 11 – 12) as in claims 1 and 16. With regard to claims 2 – 4, the fastening tape further comprises an adhesive layer that extends continuously along the entire backing layer (Figure 3, #36), is in contact with the fastening surface of the backing layer (Figure 3, #33) and adheres to the bonding extension section of the backing film (Figure 4, #35). The backing film further comprises an intermediate section (Figure 3, #34) positioned between the bonding extension section, which attaches to the disposable absorbent article (Column 4, lines 25 – 27), and the engaging extension section as in claims 5 and 12. As in claims 14 and 15, the release tape has an outer fold and an inner fold (Figure 3, #41 and 42), and the outer fold has a plurality of perforations for releasing the fastening tape from the release tape (Column 5, lines 15 – 19)

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6, 7 and 9 – 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richter et al. (USPN 6,363,587) in view of Alberg et al. (USPN 6,526,631).

Richter et al. disclose the claimed composite tape forming closure tabs for disposable articles above except for the intermediate section being extensible, at least one of the backing film and the backing layer comprises a non-woven polymeric film, an extensible composite or a textile.

Alberg et al. teach a composite tape forming closure tabs for disposable articles (Column 11, line 2) having intermediate section being extensible (Column 11, lines 34 – 36), at least one of the backing film and the backing layer comprises a non-woven polymeric film, an extensible composite or a textile (Column 11, lines 32 – 36) for the purpose of forming a mechanical fastener tape tab laminate that remains in a folded position (Column 2, lines 25 – 35).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the extensible intermediate section formed of polymeric

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non-woven film or textile in Richter et al. in order to form a mechanical fastener tape tab laminate that remains in a folded position as taught by Alberg et al.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richter et al. (USPN 6,363,587) in view of Pape et al. (USPN 4,726,971).

Richter et al. disclose the claimed composite tape forming closure tabs for disposable articles above except at least one of the backing film and backing layer comprises paper.

Pape et al. teach a composite tape forming closure tabs for disposable articles (Column 1, lines 7 – 9) having at least one of the backing film and backing layer comprises paper (Column 3, lines 3 – 5) for the purpose of forming closures for disposable diapers (Column 2, lines 9 – 10).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the paper backing film in Richter et al. in order to form closures for disposable diapers as taught by Pape et al.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richter et al. (USPN 6,363,587) in view of Borgers et al. (USPN 4,795,456).

Richter et al. disclose the claimed composite tape forming closure tabs for disposable

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articles above except the bonding section is weld to the disposable absorbent article.

Borgers et al. teach a composite tape forming closure tabs for disposable articles (Column 1, lines 8 – 10) where the bonding section is weld to the disposable absorbent article (Column 3, lines 54 – 56) for the purpose of forming a tab that provides stabilizing means for preventing premature extension of an extensible diaper tab (Column 1, lines 42 – 45).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the bonding section welded to the disposable absorbent article in Richter et al. in order to form a tab that provides stabilizing means for preventing premature extension of an extensible diaper tab as taught by Borgers et al.

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1 – 16 have been considered but are moot in view of the new ground(s) of rejection. All of the applicant's arguments are drawn to Richter et al. in combination with Kato. Kato has been withdrawn from the rejections. Please see the newly presented rejections above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571) 272-



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1496. The examiner can normally be reached on Mon.-Thurs. from 10:00-7:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patricia L. Nordmeyer  
Examiner  
Art Unit 1772

  
pln

  
RENA DYE  
SUPERVISORY PATENT EXAMINER  
A.U. 1772 9/21/04